

AMENDED IN ASSEMBLY MARCH 5, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1560**

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**Introduced by Assembly Member Gorell**

*(Coauthors: Assembly Members Bigelow, Chávez, Donnelly, Hagman,  
Harkey, Jones, Nestande, and Waldron)*

*(Coauthors: Senators Berryhill, Gaines, Huff, and Vidak)*

January 29, 2014

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An act to add Section 100509 to the Government Code, relating to health care coverage, declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1560, as amended, Gorell. California Health Benefit Exchange: confidentiality of personal information.

Existing law, the federal Patient Protection and Affordable Care Act (PPACA), requires each state to establish an American Health Benefit Exchange by January 1, 2014, that makes available qualified health plans to qualified individuals and small employers. PPACA prohibits an Exchange from using or disclosing the personally identifiable information it creates or collects other than to the extent necessary to carry out specified functions. Existing law also requires an Exchange to establish and implement privacy and security standards that are consistent with specified principles and to require the same or more stringent privacy and security standards as a condition of contract or agreement with individuals or entities. A person who knowingly and willfully uses or discloses information in violation of PPACA is subject to a civil penalty of no more than \$25,000 per person or entity, per use or disclosure, in addition to any other penalties prescribed by law.

Existing state law establishes the California Health Benefit Exchange within state government, specifies the powers and duties of the board governing the Exchange, and requires the board to facilitate the purchase of qualified health plans through the Exchange by qualified individuals and small employers by January 1, 2014. Existing law requires the board to employ necessary staff and authorizes the board to enter into contracts. Under existing law, the board of the Exchange is required to submit fingerprint images to the Department of Justice for all employees, prospective employees, contractors, subcontractors, volunteers, or vendors of the Exchange whose duties include access to specified personal information for the purposes of obtaining state or federal conviction records, as specified.

This bill would prohibit the Exchange from disclosing an individual's personal information, as defined, to 3rd parties for the purpose of determining eligibility for, or enrolling the individual in, health care coverage unless the Exchange obtains prior written consent, as prescribed. The bill would also require the Exchange to immediately notify the public of any breach of the security of personal information created, collected, or maintained by the Exchange, regardless of the severity of the breach *and regardless of whether personal information was acquired by an unauthorized person during the breach.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 100509 is added to the Government Code,
- 2     to read:
- 3     100509. (a) The Exchange shall not disclose an individual's
- 4     personal information to third parties for the purpose of determining
- 5     eligibility for, or enrolling the individual in, health care coverage
- 6     unless the Exchange obtains prior written consent.
- 7     (b) To comply with subdivision (a), the Exchange shall include,
- 8     as part of its application for health care coverage, including its
- 9     online application, a stand-alone item in 12-point font that requests
- 10    the individual's consent for disclosure of personal information to
- 11    third parties for the purposes of determining eligibility for, or
- 12    enrolling the individual in, health care coverage.

1 (c) The Exchange shall immediately notify the public of any  
2 breach of the security of personal information, regardless of the  
3 severity of the breach *and regardless of whether personal*  
4 *information was acquired by an unauthorized person during the*  
5 *breach*. This subdivision shall apply in addition to any other  
6 disclosure requirements applicable to the Exchange, including, but  
7 not limited to, Section 1798.29 of the Civil Code.

8 (d) For purposes of ~~the~~ *is this* section, “personal information”  
9 means any information that is created, collected, or maintained by  
10 the Exchange that identifies or describes an individual, including,  
11 but not limited to, his or her name, social security number, physical  
12 description, home address, home telephone number, education,  
13 financial matters, and medical or employment history. “Personal  
14 information” includes statements made by, or attributed to, the  
15 individual.

16 SEC. 2. This act is an urgency statute necessary for the  
17 immediate preservation of the public peace, health, or safety within  
18 the meaning of Article IV of the Constitution and shall go into  
19 immediate effect. The facts constituting the necessity are:

20 The California Health Benefit Exchange is currently releasing  
21 to third parties the personal information of individuals using the  
22 Covered California Internet Web site without their knowledge. In  
23 order to protect the privacy rights of individuals applying for health  
24 care coverage through the Exchange, it is necessary that this act  
25 take effect immediately.